

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

SABA BAPTISTE-ALKEBUL-LAN,

Plaintiff,

v.

Case No: 8:21-cv-1751-CEH-JSS

COMPUTER MENTORS GROUP,  
INC.,

Defendant.

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**ORDER**

This matter comes before the Court on the Report and Recommendation of Magistrate Judge Julie S. Sneed (Doc. 10). In the Report and Recommendation, Magistrate Judge Sneed recommends Plaintiff Saba Baptiste-Alkebul-Lan's Motion to Proceed *in forma pauperis* be denied and Plaintiff's Second Amended Complaint (Doc. 8) be dismissed without prejudice based on the Magistrate Judge's review under 28 U.S.C. § 1915. Plaintiff did not file an Objection to the Report and Recommendation, but instead filed a Third Amended Complaint (Doc. 11).<sup>1</sup> The matter is ripe for review.

**I. BACKGROUND**

Plaintiff, Saba Baptiste-Alkebul-Lan, proceeding *pro se*, initiated this action July 20, 2021, by filing a complaint against Ralph Smith as executor director of Computer Mentors Group, her former employer, for alleged discrimination under Title VII, the

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<sup>1</sup> Plaintiff does not label Doc. 11 as the "Third" amended complaint, but this is the third time she has amended the original filed complaint.

Americans with Disabilities Act and/or the Age Discrimination in Employment Act. Doc. 1 at 3. At the same time, Plaintiff filed a motion to proceed in court without prepaying fees. Doc. 2. Before the Court considered Plaintiff's motion, she filed an Amended Complaint (Doc. 5), wherein she named Computer Mentors Group, Inc., as Defendant, instead of Smith. On October 7, 2021, the Magistrate Judge issued a report recommending that Plaintiff's Amended Complaint be dismissed without prejudice for, among other reasons, being a shotgun pleading, failing to plead a short and plain statement establishing she is entitled to relief, and failing to plead her allegations in separate, numbered paragraphs. Doc. 6. No objection to the report and recommendation was filed. This Court adopted the report and recommendation, denied the motion to proceed without prepaying fees, and granted Plaintiff the opportunity to file an amended complaint. Doc. 7.

On October 29, 2021, Plaintiff filed a Second Amended Complaint (Doc. 8) and another motion to proceed in District Court without prepaying fees (Doc. 9). On November 19, 2021, the Magistrate Judge entered a report and recommendation recommending the motion to proceed without prepaying fees be denied and Plaintiff's Second Amended Complaint be dismissed without prejudice. Doc. 10. Plaintiff did not file an objection to the report and recommendation. Instead, she filed a Third Amended Complaint on December 5, 2021. Doc. 11. For the reasons that follow, the report and recommendation will be adopted in part and rejected in part.

## **II. STANDARD OF REVIEW**

When a party makes a timely and specific objection to a Magistrate Judge's Report and Recommendation, the district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. 28 U.S.C. § 636(b)(1)(C); *U.S. v. Raddatz*, 447 U.S. 667, 673 (1980). The district judge may accept, reject, or modify in whole or in part, the Report and Recommendation of the Magistrate Judge. Fed. R. Civ. P. 72. The district judge may also receive further evidence or recommit the matter to the Magistrate Judge with further instructions. *Id.*

### **III. DISCUSSION**

As an initial matter, the report and recommendation acknowledged that Plaintiff's motion to proceed without prepaying fees supports her claim of indigency. Doc. 10 at 2. However, the Magistrate Judge recommended the motion be denied because Plaintiff's Second Amended Complaint was due to be dismissed. In considering Plaintiff's allegations, the Magistrate Judge found that much of the text of the Second Amended Complaint was cut off or obscured such that the Magistrate Judge was unable to determine whether additional facts supported Plaintiff's multiple claims. Doc. 10 at 3 (citing Doc. 8 at 3–5). The Court notes, however, that the Plaintiff's Second Amended Complaint in the CM/ECF docket appears to be an active document, which requires the viewer to scroll through the text box. Thus, additional allegations can only be viewed when actively scrolling through the document online and not in printed form.

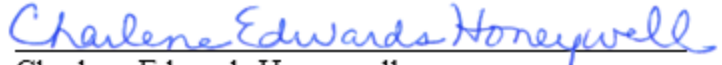
Here, no timely objection was filed by Plaintiff, but the Court construes Plaintiff's *pro se* filings liberally, and will consider her Third Amended Complaint to be an attempt to correct any pleading deficiencies noted by the report and recommendation. *See Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (pleadings from *pro se* litigants are held to a less stringent standard than pleadings drafted by attorneys). Plaintiff's Third Amended Complaint has been filed in PDF format such that the online and printed version are both able to be fully viewed. Additionally, it appears Plaintiff has added additional factual support to her allegations which may demonstrate she is able to state a cause of action. Accordingly, the Court will adopt the recommendation that the Second Amended Complaint be dismissed without prejudice as Plaintiff has now filed a Third Amended Complaint in the proper PDF format and with additional factual support. As the Magistrate Judge recognized that the Plaintiff's affidavit supports her claim of indigency, the Court will defer ruling on the motion to proceed in District Court without prepaying fees. It is hereby

**ORDERED:**

1. The Report and Recommendation of the Magistrate Judge (Doc. 10) is adopted, confirmed, and approved, to the extent that the Second Amended Complaint (Doc. 8) is **DISMISSED without prejudice**. In all other respects, the report and recommendation is rejected.

2. A ruling on Plaintiff's Motion to Proceed Without Prepaying Fees (Doc. 9) is **DEFERRED** pending consideration of the Third Amended Complaint under 28 U.S.C. § 1915 by the Magistrate Judge.

**DONE** and **ORDERED** in Tampa, Florida on January 3, 2022.

  
Charlene Edwards Honeywell  
United States District Judge

Copies furnished to:  
Counsel of Record  
Unrepresented Parties